

March 26, 2001

Exemption No. 7474
Regulatory Docket No. FAA-2000-8462

Mr. Stephen C. Low
Executive Director
National Warplane Museum
Elmira-Corning Regional Airport
17 Aviation Drive
Horseheads, NY 14845

Dear Mr. Low:

By letter dated October 28, 2000, you petitioned the Federal Aviation Administration (FAA) on behalf of National Warplane Museum (NWM) for an extension of Exemption No. 6565, as amended. That exemption from Sections 91.315, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR) permitted the NWM to carry passengers on local flights for compensation or hire in its limited category Boeing B-17 aircraft in support of the NWM's fundraising efforts. Because that exemption expired on January 31, 2001, the FAA is addressing this request as a new petition for exemption.

The FAA issued to NWM a grant of exemption in circumstances similar in all material respects to those presented in your current petition. In Grant of Exemption No. 6565 (copy enclosed), the FAA found that NWM had articulated an overriding public interest in the continued operation of these former U.S. military aircraft. The FAA recognized the uniqueness of NWM's situation in that the only way for a person to actually experience the flight characteristics of the B-17 is to be able to fly in the actual airplane. The FAA noted that if the experience of flight in the B-17 could be accomplished in a standard airworthiness category aircraft, then there would have been no compelling reason to grant the NWM's original exemption. Additionally, the FAA emphasized that those who participate in a flight experience of the B-17 are on board the airplane only to participate in the educational and historical experience, and not for the purpose of transportation, thus presenting no competition to part 121 and part 135 certificate holders.

In NWM's original exemption, the FAA also determined that NWM explained in an acceptable manner how safety would not be adversely affected. The FAA noted that the extensive maintenance and inspection program following by NWM to maintain its airplane minimizes the risks associated with the significant unknowns about safety in matters such as life-limited parts and aircraft design. Also, the FAA notes that all of NWM's flight crewmembers are required to meet stringent qualification and training requirements.

AFS-01-283-E

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented in your original grant of exemption. In addition, I have determined that the reasons stated by the FAA for granting that exemption also apply to the situation you currently present.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701, delegated to me by the Administrator, National Warplane Museum is granted an exemption from 14 CFR Sections 91.315, 119.5(g), and 119.21(a) to the extent necessary to carry passengers on local flights for compensation or hire in its limited category Boeing B-17 aircraft in support of the NWM's fundraising efforts, subject to the following conditions and limitations:

1. The NWM must continue to maintain its B-17 in accordance with:
 - (a) The maintenance requirements specified in the B-17's type specification sheet, as amended.
 - (b) The FAA-approved maintenance program that meets the requirements of Section 91.409.
 - (c) Appropriate military technical manuals on the B-17.
2. The pilot-in-command crewmember must:
 - (a) Hold at least a commercial pilot certificate with a multiengine airplane rating, an airplane instrument rating, and a B-17 type rating.
 - (b) Have completed the NWM's B-17 qualification and recurrent flight and ground training program within the previous 12 calendar months.
 - (c) Regarding flight experience, have
 - (1) At least a total of 2,500 hours of aeronautical flight experience, including 1,000 hours in multiengine airplanes, of which at least 25 hours must have been in a B-17; or
 - (2) At least a total of 1,000 hours of aeronautical flight experience, including 200 hours in multiengine airplanes, of which at least 100 hours and 50 takeoffs and 50 landings must have been performed in a B-17.
 - (d) Have accomplished three takeoffs and three

landings to a full stop in a B-17 within the previous 90 days prior to serving as pilot in command.

3. The second-in-command crewmember must:
 - (a) Hold at least a commercial pilot certificate with a multiengine airplane rating and an airplane instrument rating.
 - (b) Have completed the NWM's B-17 qualification and recurrent flight and ground training program within the previous 12 calendar months.
 - (c) Regarding flight experience, have
 - (1) At least a total of 1,500 hours of aeronautical flight experience, including 250 hours in multiengine airplanes; or
 - (2) At least a total of 500 hours of aeronautical flight experience, including 100 hours in multiengine airplanes, of which at least 25 hours and 10 takeoffs and 10 landings must have been performed in a B-17.
 - (d) Have accomplished three takeoffs and three landings to a full stop in a B-17 within the previous 90 days prior to serving as second in command.
4. The NWM must have the services of an FAA-certificated airframe and powerplant mechanic or an appropriately rated repair station available at all stopovers to perform all required maintenance inspections and repairs.
5. The NWM must maintain and make available for review by the FAA upon request, the following records:
 - (a) The name of each pilot crewmember that the NWM authorizes to conduct flight operations in its B-17 under the terms of this exemption.
 - (b) Copies of each pilot crewmembers' pilot certificate, medical certificate, qualifications, and documentation indicating completed recurrent training in the B-17 to show compliance with Condition Nos. 2 and 3.
 - (c) Records of maintenance and inspections performed, for the purpose of showing compliance with Condition No. 1.

- (d) A list of all incidents, accidents, or mechanical failures of the airframe, propellers, or engine that occur during the period operations are conducted under this exemption. That list must include the date of each incident/accident/failure, all information on the possible causal factors, and the extent of injuries sustained.
6. Prior to permitting a person to be carried on board its B-17 for the purposes authorized under this grant of exemption, the NWM must inform that person:
- (a) That its B-17 only holds a limited airworthiness certificate.
 - (b) Of the significance of a limited airworthiness certificate when compared with a standard airworthiness certificate, which must include at least the following information:
 - (1) That the FAA has neither established nor approved the standards under which a limited category airworthiness certificated aircraft was built. In contrast, standard category airworthiness certificated aircraft are built to FAA-approved standards, including standards concerning the design of the aircraft and standards concerning life-limited parts; and
 - (2) Limited category airworthiness certificated aircraft are issued when the FAA finds that the aircraft:
 - (i) Has previously been issued a limited category type certificate and the aircraft conforms to that type certificate; and
 - (ii) Is in a good state of preservation and repair and is in a safe operating condition.
 - (3) Standard category airworthiness certificates are issued for an aircraft when the FAA finds that:
 - (i) The aircraft has been built in accordance with that aircraft's type certification standards as established by the FAA;
 - (ii) The aircraft has been maintained in accordance with that aircraft's type certification standards as established by the FAA; and

- (iii) The aircraft's inspection and maintenance requirements are in compliance with the applicable Federal Aviation Regulations.
 - (c) That the FAA has authorized this flight under a grant of exemption from the requirements of Sections 91.315, 119.5(g), and 119.21(a).
7. All flight operations shall be conducted:
- (a) At a minimum operating altitude of not less than 1,000 feet above ground level (AGL), except when necessary for takeoff or landing.
 - (b) Between the hours of official sunrise and sunset, as established in the American Air Almanac, as converted to local time.
 - (c) With a minimum flight visibility of not less than 5 statute miles.
 - (d) With a minimum ceiling of not less than 2,000 feet AGL.
 - (e) Within a 50-nautical-mile radius of the departure airport, and the only permitted landing shall be at that departure airport.
8. Except for essential crewmembers who are not considered passengers, all flight operations may carry no more than the maximum number of passengers permitted by:
- (a) The aircraft's weight and balance limitations.
 - (b) The number of approved seats in the aircraft.
9. Except as provided in Condition No. 10, the NWM's airplane must have the equipment listed in Section 91.205(b), other than the equipment listed in paragraph (b)(15) of that section, and that equipment must be in an operable condition during the flight.
10. The NWM's airplane must have the equipment listed in Section 91.205(b)(11), and that equipment must be in an operable condition during the flight if the airplane is to be operated over water and beyond the power-off gliding distance from shore.
11. The NWM must hold and continue to hold a determination from the U.S. Internal Revenue Service as a Section 501(c)(3) nonprofit, tax-exempt, charitable organization in accordance with Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

This exemption terminates on March 31, 2003, unless sooner superseded or rescinded.

Please note the FAA has assigned a new docket number to this project (Docket No. FAA-2000-8462; previously Docket No. 28706). In an effort to allow the public to participate in tracking the FAA's rulemaking activities, we have transitioned to the Department of Transportation's Internet-accessible Docket Management System, located at <http://dms.dot.gov>. This new system enables interested persons to submit, view, and download requests to the Docket Management System in accordance with 14 CFR Section 11.63. Future requests should be submitted through this System.

Sincerely,

/s/ L. Nicholas Lacey
Director, Flight Standards Service

Enclosure